



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,924	02/01/2000	Jeffry Jovan Philyaw	PHLY-24,913	4127

25883 7590 12/06/2001

HOWISON, THOMA & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

EXAMINER

FISCHEITTI, JOSEPH A

ART UNIT	PAPER NUMBER
----------	--------------

2167

DATE MAILED: 12/06/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

FR

T.R

Office Action Summary**Application No.**

09/494,924

Applicant(s)

PHILYAW ET AL.

Examiner

Joseph A. Fischetti

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 20) ☐ Other: _____

Information Disclosure Statement

The information disclosure statement filed 10/16/00 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudetz et al '048.

Hudetz et al. disclose providing an input device 120 at the first location on the global communication network having associated therewith a unique input device ID (the address of every computer is notoriously well know to be transmitted by a PC to a server);

scanning a product code disposed on a product with the input device (col. 11, lines 31- 32), which product code is representative of the product in commercial transactions, the step of scanning operable to extract the information contained in the product code to provide a unique value as an output (numeric address encoded in bar code) ;

associating the unique value with the unique input device ID ; and
in response to the step of scanning and the step of associating,
connecting the first location to the second location. (Hudetz et al. Discloses in col. 11 lines 4-10 that once the unique value i.e. the numeric address encoded in the bar

Art Unit: 2167

code is extracted, it is associated by the service provider with the first location computer.)

Re claims 23,24, 25,27: Hudetz et al disclose in response to the step of scanning and the step of associating, accessing a database having stored therein a plurality of unique values for a plurality of products, each associated with routing information over the global communication network to one of the plurality of second locations (see database, 60 all records having UPC fields - col. 8, lines 47-67, and col.9 lines 1-5) ;

comparing the output unique value with the stored unique values in the database; and if a match exists between the output unique value and any of the stored unique values: (Official notice is taken with respect to the old and notorious use of comparing two values in a binary system to determine if a match exists);

retrieving from the database the associated routing information to the second location, and connecting the first location with the second location on the global communication network in accordance with the retrieved routing information.- (Hudetz et al. Discloses in col. 11 lines 4-10 that once the unique value i.e. the numeric address encoded in the bar code is extracted, it is associated by the service provider with the first location computer.)

Re claim26: accessing a remote location on the global communication network at an intermediate node thereon; forwarding the unique value and unique device ID to the intermediate node; (see col. 11 lines 6-7, remote server 128 is an intermediate node) ;

wherein the database is disposed at the intermediate node; retrieving the associated routing information from the database in the event of a positive match and forwarding the retrieved routing information back to the first location and connecting the first location to the second location in accordance with the retrieved information. (Where the database is located is not considered to be of any patentable weight given that the speed of the internet and the ability of data to travel on it at great speeds regardless of location makes this limitation obvious. Furthermore, official notice is taken with respect to the notoriously well known practice of locating data files remotely. Notwithstanding, col. 7, lines 57-64 suggest that the database 60 be disposed in a number of locations including one that is intermediately disposed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2167

Any inquiry concerning this communication should be directed to Joseph A.

Fischetti at telephone number (703) 305-0731.

Joseph A. Fischetti